

REMARKS

Claim 6 has been cancelled. Claims 1, 11 and 45-46 have been amended. Claims 12-44 have been withdrawn. Claims 1-2, 4-5, 7-11 and 45-46 remain for consideration. No new matter has been added.

The objections and rejections shall be taken up in the order presented in the Official Action.

1-7. Claims 1-2, 4-11 and 45-46 currently stand rejected for allegedly being indefinite.

Claims 1 and 45 have been amended to remove the alleged indefinite language.

8-9. Claims 1, 2, 4-11 and 45-46 currently stand rejected for allegedly being anticipated by the subject matter disclosed in U.S. Published Patent Application 2003/0177380 to Woods (hereinafter “Woods”).

Claim 1

Amended claim 1 recites a carrier medium for analyzing an analyte. The carrier medium includes:

“a plurality of defined regions, where each of the defined regions has one of a plurality of different substances applied; and

a code that indicates which one of the substances is applied in which one of the defined regions, where the substances are disposed differently in the defined regions on two different carrier media, where the code is from the group that comprises a bar code, a numeric code, an alphanumeric code, and an arrangement of the plurality of defined regions on the carrier medium.” (cl. 1; emphasis added).

Upon a fair and proper reading, Woods fails to disclose the feature of amended claim 1 of “*where the substances are disposed differently in the defined regions on two different carrier media.*” Woods throughout only discloses or suggests features relating to a single “biochip” or

“array”. Specifically, the disclosure in Woods relates to new devices for receiving and storing data relating to arrays, including both static and dynamic data. (Paragraph 0009). In the “SUMMARY OF THE INVENTION” section, Woods in particular is focused on a data storage element that is configured to receive and store data related to a held array. (Paragraph 0010). Woods carries this focus on a data storage element throughout its disclosure.

As such, Woods fails to disclose features relating to a plurality of such arrays or carrier media and in particular Woods fails to disclose in general at least one feature of an array that differs between at least two of the arrays. In the present claimed invention, this feature that differs between two different carrier media is that the substances are disposed differently in the defined regions on two different carrier media. Nowhere in Woods is there any teaching or suggestion regarding this particular “different carrier media” feature of amended claim 1.

As known a 35 U.S.C. §102 rejection requires that a single prior art reference disclose each feature of the claimed invention. Since Wood fails to disclose the feature of claim 1 of “*where the substances are disposed differently in the defined regions on two different carrier media,*” it is respectfully submitted that Woods is incapable of anticipating the subject matter of amended claim 1. As a result, it is respectfully submitted that the anticipation rejection of amended claim 1 is moot and should be removed, and that amended claim 1 is in condition for allowance and should be passed to issuance.

Claim 45

Amended claim 45 recites a carrier medium for analyzing an analyte. The carrier medium includes:

“at least two defined regions, a substance applied to each one of the at least two defined regions; and

a code stored on the carrier medium, the code being indicative of a type of the substance applied to each one of the at least two defined regions and to each one of which of the at least two defined regions the substance is applied to, where the at least one substance is disposed differently in the defined regions on two different carrier media, where the code is from the group that comprises a bar code, a numeric code, an alphanumeric code, and an arrangement of the at least two defined regions on the carrier medium.” (cl. 45; emphasis added).

It is respectfully submitted that since original claim 45 was amended to include a similar feature as amended claim 1 discussed above and not disclosed or suggested in Woods (i.e., “*where the at least one substance is disposed differently in the defined regions on two different carrier media*”), the arguments above with respect to amended claim 1 apply equally to amended claim 45. Thus, amended claim 45 is patentable for at least the same reasons set forth above with respect to amended claim 1.

As a result, it is respectfully submitted that the anticipation rejection of amended claim 45 is moot and should be removed, and that amended claim 45 is in condition for allowance and should be passed to issuance.

10-12. Claims 1, 2, 4-11 and 45-46 currently stand rejected for allegedly being obvious over the combined subject matter in Woods and U.S. Patent 6,215,894 to Zeleny (hereinafter “Zeleny”).

Claim 1

Amended claim 1 recites a carrier medium for analyzing an analyte. The carrier medium includes:

“a plurality of defined regions, where each of the defined regions has one of a plurality of different substances applied; and
a code that indicates which one of the substances is applied in which one of the defined regions, where the substances are disposed differently in the defined regions on two different carrier media, where the code is from the group that comprises a bar code, a numeric code, an alphanumeric code, and an arrangement of the plurality of defined regions on the carrier medium.” (cl. 1; emphasis added).

With respect to claim 1, the Official Action contends that Zeleny discloses all of the features of claim 1. (Official Action, pgs. 4-5). It is only with respect to the temperature sensor recited in claim 5 that the Official Action recognizes that Zeleny fails to disclose such sensor and then contends that Woods discloses a temperature sensor and concludes that it would have been obvious to modify Zeleny to include the temperature sensor of Woods. (Official Action, pg. 5).

Upon a fair and proper reading, the combined teachings of Woods and Zeleny fails to disclose the feature of amended claim 1 of “*where the substances are disposed differently in the defined regions on two different carrier media*.” Zeleny, similar to Woods discussed above, only discloses or suggests features relating to a single “biochip array.” Zeleny fails to disclose features relating to a plurality of such arrays or carrier media; in particular a feature of an array that differs between arrays – in the present claimed invention the substances being disposed differently in the defined regions on two different carrier media. Specifically, the disclosure in Zeleny relates to an

identifier imprinted on the biochip, where the identifier relates to one or more experiments to be carried out on the biochip. (Col. 2, lines 13-33). As such, Zeleny fails to disclose features relating to a plurality of such arrays or carrier media and in particular Zeleny fails to disclose in general at least one feature of an array that differs between at least two of the arrays. In the present claimed invention, this feature that differs between two different carrier media is that the substances are disposed differently in the defined regions on two different carrier media. The combination of Woods and Zeleny neither discloses nor suggests the “*different carrier media*” feature of amended claim 1.

As a result, it is respectfully submitted that the obviousness rejection of amended claim 1 is moot and should be removed, and that amended claim 1 is in condition for allowance and should be passed to issuance.

Claim 45

Amended claim 45 recites a carrier medium for analyzing an analyte. The carrier medium includes:

“at least two defined regions, a substance applied to each one of the at least two defined regions; and

a code stored on the carrier medium, the code being indicative of a type of the substance applied to each one of the at least two defined regions and to each one of which of the at least two defined regions the substance is applied to, where the at least one substance is disposed differently in the defined regions on two different carrier media, where the code is from the group that comprises a bar code, a numeric code, an alphanumeric code, and an arrangement of the at least two defined regions on the carrier medium.” (cl. 45; emphasis added).

It is respectfully submitted that since original claim 45 was amended to include a similar feature as amended claim 1 discussed above and not disclosed or suggested in Zeleny (i.e., “*where the at least*

one substance is disposed differently in the defined regions on two different carrier media”), amended claim 45 is patentable for at least the same reasons set forth above with respect to amended claim 1.

As a result, it is respectfully submitted that the obviousness rejection of amended claim 45 is moot and should be removed, and that amended claim 45 is in condition for allowance and should be passed to issuance.

For all the foregoing reasons, reconsideration and allowance of claims 1-2, 4-5, 7-11 and 45-46 is respectfully requested.

If a telephone interview could assist in the prosecution of this application, please call the undersigned attorney.

Respectfully submitted,



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